

\*\*E-Filed July 1, 2008\*\*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

DAVID LEE, an individual, on behalf of himself  
and on behalf of others similarly situated,

Plaintiffs,

v.

THE TIMBERLAND COMPANY, a New  
Hampshire corporation conducting business in the  
State of California, and Does 1-100,

Defendants.

Case Number C 07-2367 JF  
ORDER<sup>1</sup> FIXING ATTORNEY'S  
FEES AND COSTS.

[re: docket no. 33]

Plaintiff David Lee ("Lee") seeks an award of attorney's fees and costs pursuant to the settlement agreement in the above entitled action. For the reasons set forth below, attorney's fees will be awarded in the amount of \$183,107.50, and costs will be awarded in the amount of \$1,893.68.

**I. BACKGROUND**

The background of this case is set forth in the Court's Order of June 19, 2008 approving

---

<sup>1</sup> This disposition is not designated for publication in the official reporter.

1 the parties' settlement agreement. Class Counsel has submitted evidence that 333.25 attorney  
2 hours and 142.35 paralegal hours were devoted to this case. Lee seeks an award of attorney's  
3 fees in the amount of \$183,107.50, with no multiplier, and costs in the amount of \$1,893.68. The  
4 motion is unopposed.

## 5 II. DISCUSSION

6 The Fair Labor Standards Act provides that the Court "shall, in addition to any judgment  
7 awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the  
8 defendant, and costs of the action." 29 U.S.C. § 216(b). The Ninth Circuit has held that "the  
9 starting point for determining a reasonable fee is the 'lodestar' figure, which is the number of  
10 hours reasonably expended multiplied by a reasonable hourly rate." *Gates v. Deukmejian*, 987  
11 F.2d 1392, 1397 (9th Cir. 1992). Although there is a "strong presumption" that the lodestar  
12 represents a reasonable fee, it may be adjusted upwardly or downwardly based upon certain  
13 factors. *See id.*; *Lucas v. White*, 63 F.Supp.2d 1046, 1057 (N.D. Cal. 1999). "Counsel for the  
14 prevailing party should exclude from a fee request hours that are excessive, redundant, or  
15 otherwise unnecessary, just as a lawyer in a private practice is ethically obligated to exclude  
16 hours from his fee submission." *Hensley v. Eckerhart*, 461 U.S. 424, 433-434 (1983) (citations  
17 omitted); *see also*, *Gates*, 987 F.2d at 1402. The party seeking the fee bears the burden of  
18 documenting the appropriate hours expended in the litigation and must submit evidence in  
19 support of those hours worked. *Id.* at 1398-1399.

20 In the instant case, Plaintiff has met this burden by submitting time records and  
21 declarations in support of the fees and costs requested. Class Counsel also has carefully  
22 explained the challenges presented by this case and the relative difficulty of the legal issues at  
23 hand. The Court appreciates Class Counsel's reasonable request for fees in view of the fact that  
24 the request is unopposed. The Court will approve the fees and costs documented in Plaintiff's  
25 moving papers.

## 26 III. ORDER

27 Good cause therefor appearing, IT IS HEREBY ORDERED that Plaintiff's is awarded  
28

1 attorney's fees in the amount of \$183,107.50 and costs in the amount of \$1,893.68.

2  
3 DATED: July 1, 2008

4  
5   
6 JEREMY FOGEL  
7 United States District Judge  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 This Order has been served upon the following persons:

2 Stephen Bryan Morris  
3 Email: morris@sandiegolegal.com

4 Mark Clare Hinkley  
5 Email: hinkley@sandiegolegal.com

6 Fraser Angus McAlpine  
7 Email: fmcalpine@ackingump.com

8 Lindsay Erin Goines  
9 Email: lgoines@ackingump.com